

THE DIRECTOR OF CENTRAL INTELLIGENCE

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WASHINGTON, D.C. 20505

Legislative Counsel

OLC 81-0782/a

29 APR 1981

Honorable Jack Brooks, Chairman
Committee on Government Operations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is to inform you of the views of the Central Intelligence Agency on H.R. 1526, the "Federal Managers' Accountability Act of 1981," which is scheduled to be considered by the Subcommittee on Legislation and National Security on 30 April 1981. This Bill would amend section 113 of the Accounting and Auditing Act of 1950 to require, among other things, that the head of each executive agency prepare, for dissemination to the President, the Congress and the public, a report on the adequacy of the individual agency's systems of internal auditing and administrative control. In addition, H.R. 1526 would amend two provisions of the Budget and Accounting Act of 1921.

The Central Intelligence Agency cannot support enactment of the Bill as currently drafted. In providing for the preparation of a report whose breadth and scope is undefined and whose ultimate dissemination is public, mandating that the President in his annual budget request include statements concerning funds requested by the CIA's Office of Inspector General, and requiring that department and agency heads include in their appropriation requests a statement that such requests are based on an accounting system approved by the Comptroller General, the Bill directly conflicts with the authority granted the Director of Central Intelligence relating to expenditures under subsections 8(a) and (b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j). The Bill would also directly contravene the Director's statutory authority to protect intelligence sources and methods from unauthorized disclosure (50 U.S.C. 403(d)(3)) as well as the nondisclosure provisions in section 6 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403g). Moreover, the amendments to the Budget and Accounting Act of 1921

proposed in section 3 of the Bill are inconsistent and incompatible with the manner in which the Agency obtains its appropriations. Because of the inextricable interaction of normal processes with unique intelligence methodologies in the Agency's accounting systems as well as the relationship of sensitive and nonsensitive transactions within these systems, external review and approval and public accountability are inconsistent with these statutory authorities.

Thus, the Bill does not reflect the considerations on which the Director's statutory responsibilities and authorities are based; intelligence activities must of necessity be carried out in a confidential manner, and the funding of and accounting for these inherently sensitive activities are as much a part of that process as are the particulars of the activities themselves. In recognition of these factors, the Congress, as recently as last year, reaffirmed that the funding of and accounting for sensitive intelligence activities shall not be subject to funding and accounting requirements applicable to other, less sensitive government activities (P.L. 96-226, the "General Accounting Office Act of 1980," 3 April 1980).

Inclusion in the Bill of the following new section 5 would do much to mitigate the negative effect of enactment of H.R. 1526, as currently drafted:

"SEC. 5. The provisions of this Act shall not apply to the Central Intelligence Agency."

Your consideration of this proposal would be greatly appreciated. The Office of Management and Budget has advised that this proposed amendment is consistent with the Administration's objectives.

Sincerely,

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Frederick P. Hitz
Legislative Counsel